THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.4255 OF 1998

DATED: 12-3-2007

Between :

1. Thamma Krishna Reddy and another. .. Petitioners

And

1. The Mandal Revenue Officer, Jeelugumilli Mandal, West Godavari District., and 3 others. .. Respondents

THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.4255 OF 1998

ORDER :

The petitioners herein who are non-tribals claim to be the owners and possessors of the land situated in Sy.Nos.88, 90, 91 within the limits of Jeelugumilli Village & Mandal, West Godavari District. It is not in dispute that the said village forms part of agency tract. While so, the Special Deputy Collector (Tribal Welfare) after conducting due enquiry under Section 3 (2) (a) of the A.P. Scheduled Areas Land Transfer Regulation (Regulation 1 of 1959) ordered ejectment by order dated 14-3-1981 holding that the possession of the petitioners was in contravention of the Regulation 1 of 1959. Though the petitioners preferred an appeal, the same was dismissed by the Agent to the Government.

While so, the petitioners along with similarly situated persons filed a writ petition contending that Jeelugumilli Village was wrongly declared as scheduled area and therefore the laws relating to the scheduled areas are inoperative. The said writ petition was heard by a Division Bench along with a batch of identical matters and all the writ petitions were dismissed by order dated 29-10-1997. However, the Division Bench granted liberty to the petitioners to make a representation within one month from the date of receipt of a copy of the said order to the Governor with all relevant material in which event the same shall be considered and appropriate decision be taken. It is pleaded that pursuant to the said order, the petitioners made a representation on 23-12-1997. Alleging that though the petitioners

sought interim stay pending consideration of their representations no such stay was granted and even the representations have not been considered, but in the meanwhile the respondents have been attempting to dispossess them from the land in question, this writ petition was filed on 16-2-1998.

This Court while directing Rule Nisi, by order dated 17-2-1998 granted interim stay of dispossession.

In response to Rule Nisi, on behalf of the respondents a counter-affidavit has been filed stating that pursuant to the order of ejection passed by the Special Deputy Collector (TW) as confirmed on appeal, the possession of the land in question was taken on 23-11-1997 much prior to the interim stay granted by this Court on 17-2-1998. It is also stated that the pattas were granted to the eligible poor tribals on 3-1-1998 and the same was also handed over to them and therefore the writ petition itself has become infructuous.

Though no affidavit in reply is filed by the respondents, the learned Counsel for the petitioners across the bar submitted that the petitioners are very much in possession as on today. The learned Counsel for the petitioners further submitted that under Rule 7 (4) of the A.P. Scheduled Areas Land Transfer Rules, 1969 the person in possession who suffered an order of ejection under sub-section (2) of Section 3 of Regulation 1 of 1959 can be dispossessed only in the manner in which any decree or ejectment by a competent Civil Court is executed. In the light of the above provision, the learned Counsel for the petitioners contended that it would be appropriate to direct the respondents not to dispossess the petitioners without following the procedure prescribed under Rule 7 (4) of the Rules.

I am unable to agree with the submission of the learned Counsel for the petitioners firstly for the reason that there is absolutely no material on record to show that the representation said to have been made by the petitioners is pending before the Governor of the State. As on today Jeelugumilli Village continues to be a notified

scheduled area and admittedly no order has been passed excluding the same. That apart, admittedly there was an order of ejection passed under Regulation 1 of 1959 on 14-3-1981 which has become final long back and the specific plea in the counter-affidavit that the petitioners were dispossessed much prior to the interim orders granted by this Court remained unrebutted. Except the oral submission of the learned Counsel for the petitioners there is no other material to show that the petitioners are continuing in possession.

For all the aforesaid reasons, I do not find any justifiable reason to grant the relief as prayed for.

Accordingly, the Writ Petition is dismissed. No costs.

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G. ROHINI, J.

Dt. 12-03-2007

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